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COMMISSION ON HUMAN RIGHTS

Fourth special session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 24 September 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 3.10 p.m.

LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (agenda item 3) (continued)

1. Mr. LITTMAN (Association for World Education) said that it was impossible to deny the heavy responsibility of Jakarta's military rulers for the mass killings carried out by the local militias in East Timor. Ever since the illegal annexation of the territory in 1975, more than 200,000 East Timorese - a fifth of the population - had been killed in the ongoing genocide. There had been, and there still was, a clear "complicity to commit genocide". The Association for World Education had repeatedly emphasized the need to implement fully the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and the need to set up an effective early-warning system. The genocides of recent times had shown clearly that effective prevention mechanisms would have made it possible to avoid such tragedies.

2. What was needed now was the speedy arrest and trial of those directly or indirectly responsible for the atrocities in East Timor. That would probably require an ad hoc international tribunal along the lines of those set up for the former Yugoslavia and Rwanda. At the same time, it was essential to work towards reconciliation between East Timorese and Indonesians, who were bound by many ties. Human rights bodies should also keep a close watch on social movements in Indonesia, for East Timor's independence could serve as an example for others in the archipelago. There was an urgent need to redouble efforts to resolve violent conflicts in other regions where there was a high risk of genocide, particularly in Africa. However, the most important thing was to heed the warning signs of genocide. Neutrality in the face of genocide was unacceptable and must never be used to delay action by the international community.

3. Mr. RAMOS HORTA (Worldview International Foundation) expressed his gratitude to the Commission for highlighting the fate of East Timor and to the High Commissioner for Human Rights in particular for having given new meaning to the struggle against human rights abuses. The tragic events in East Timor were reminiscent of the Holocaust, the worst genocide in human history. In both cases, the tragedy had occurred because no preventive measures had been taken, but also because States had placed realpolitik above all other considerations. The destruction being carried out in East Timor today harked back to post-Nazi occupation Europe and, more recently, Kuwait after the Iraqi retreat.

4. He said that his feelings towards Indonesia were the same as those of Jews towards Germany. At the same time, the East Timorese were fully aware of the need to distinguish between the responsibility of the army and that of the Indonesian people. Indeed, President Habibie was to be congratulated on having attempted to break the cycle of 23 years of colonial warfare. It was clear to all that it was the Indonesian army that was truly responsible for the killings in East Timor.

5. Unlike the Holocaust, the tragedy of East Timor had been played out under the gaze of the television cameras. The whole world had seen people massacred, houses destroyed and churches burnt down, all obviously orchestrated by the Indonesian army. In such circumstances, the Commission should adopt a resolution strongly supporting the establishment of an international commission of inquiry, for any other course would be a serious blow to the ideals of democracy and the defence of human rights. If Commission members rejected the draft resolution submitted by the European Union, a text that was in fact quite moderate, they should ask themselves whether they were not complicit in genocide.

6. Ms. PRITCHARD (International Work Group for Indigenous Affairs) said that, in its deliberations on responses to the crimes of genocide and crimes against humanity committed in East Timor, it was essential that the Commission should recall the international context in which the crimes had been committed. The situation in East Timor was different from that in such countries as Cambodia, Rwanda or Sierra Leone, where the context of gross violations of human rights had been one of internal conflict or civil war. The recent events in East Timor were not the expression of long-standing differences between East Timorese, but rather the culmination of a consistent pattern of violence following the invasion and illegal occupation of East Timor in 1975. Various United Nations agencies had established that the widespread destruction in East Timor was a result not of civil war but of acts of violence committed by organized militias and supported by parts of the Indonesian military (TNI).

7. The United Nations had never recognized Indonesia's illegal occupation of East Timor and it was imperative that international procedures should be established to bring the perpetrators of the violence to justice. Those procedures must include an ad hoc international tribunal with powers to prosecute and punish the perpetrators. An independent, impartial tribunal that observed international legal standards must be established along the lines of the international criminal tribunals for the former Yugoslavia and Rwanda and in accordance with the provisions of the Rome Statute of the International Criminal Court. Truth commissions certainly had a role to play in assisting reconciliation, but they rarely resulted in prosecutions and invariably led to widespread amnesties and impunity.

8. The temporal jurisdiction of any tribunal or other procedures recommended by the Commission should not be limited by reference to an arbitrarily selected date. The acts that had recently taken place in East Timor had not been spontaneous but carefully planned. The Commission should therefore reject a narrow, artificial approach to questions of temporal competence. Her group urged the Commission to call on the Security Council to establish an ad hoc tribunal under Chapter VII of the Charter, thereby ensuring that all the provisions of the relevant resolution were legally binding. If the Security Council failed to act, it would be up to the General Assembly to establish the tribunal under Chapter IV of the Charter.

9. Mr. RANHEIM (Survival International) said that, as a member of the International Federation for East Timor (IFET) observer mission before and during the East Timor referendum, he was in a position to state that the recent bloodshed there had been entirely expected. From the very beginning,

IFET observers had underlined the fact that most East Timorese feared a bloodbath at the hands of the military and the militias if the vote went in favour of independence. Army-supported paramilitary groups had been carrying out acts of violence and intimidation against supporters of independence. The IFET observers had recommended that the militias should immediately be disarmed and disbanded and that Indonesian military personnel should be withdrawn from the territory.

10. The IFET observer teams had gathered evidence of numerous crimes committed by the pro-integration militias and by the Indonesian police and army, working closely together in a deliberate, systematic campaign of violence. The clearest proof of the collusion between the army and the militias had come from radio conversations recorded by the IFET observer teams. Members of the Kopassus special forces could be heard informing militiamen where and when to pick up arms and suggesting that it should be done on 30 August, because UNAMET would be busy that day. A military officer had also coordinated an arms delivery between the Ablai and Mahidi militias.

11. Mr. KEIJZER (Anti-Slavery International), continuing the preceding speaker's intervention in his capacity as IFET observer, said that, while diplomats were talking of sovereignty and cooperation, thousands of displaced East Timorese continued to suffer hunger, dehydration and disease for lack of emergency humanitarian aid. The international community had only now finally mustered the courage to send troops to East Timor. Had it done so following the massacres in Liquica and Dili in April, the territory's transition would have been peaceful. Even today, in resolution 1264 (1999), the Security Council continued to seek Indonesian cooperation despite proof that Indonesian armed forces were involved in the violence against supporters of independence. It was important that the perpetrators should be identified and justice done. Anti-Slavery International therefore endorsed calls for the establishment of a commission of inquiry and for special rapporteurs to be sent to East Timor. The most pressing need, however, was to prevent further crimes being perpetrated.

12. IFET therefore recommended that the United Nations should immediately assume responsibility for security in East Timor and that the territory should be placed under the administration of UNAMET pending the formation of an East Timorese government. All Indonesian forces must be withdrawn without delay. Emergency humanitarian aid must then be provided for the hundreds of thousands of displaced East Timorese. The refugee camps should be placed under international supervision and all Indonesian military, paramilitary and police should be withdrawn. Arrangements for the return of displaced persons must be made as soon as possible. Lastly, United Nations investigators must be granted all the resources needed to call the perpetrators of crimes against the East Timorese population to account for their actions, whatever their position in the chain of command.

13. The NGOs meeting in Geneva believed that the Commission on Human Rights should adopt a resolution aiming to ensure respect for human rights in East Timor and prevent impunity. Such a resolution should condemn the crimes of genocide, crimes against humanity and war crimes that had been committed, as well as the role of the militias, the army and the police. It should also call for the establishment of a safe corridor so that all who wished to do so

could return to East Timor without the need for registration or proof of identity. The resolution should also call on Indonesia to prevent the destruction of any evidence of violations of human rights or international humanitarian law committed against East Timorese in East or West Timor or in other parts of Indonesia.

14. The NGOs supported the initiative by the High Commissioner for Human Rights to establish an international commission of inquiry leading to the establishment of an ad hoc tribunal to prosecute those responsible. The international community had hesitated to act despite overwhelming evidence that the Indonesian military had been planning to commit atrocities against the East Timorese people if they voted for independence. The international community had a responsibility to ensure continuing respect for human rights in East Timor and to prevent such crimes ever happening again.

15. Mr. GUTERRES LOPES (International Federation of Human Rights) said that, as an East Timorese, it was with great bitterness that he addressed the Commission, which was meeting - too late again - to redress a crime long foretold. FIDH and other NGOs had repeatedly tried to warn concerned Governments and international organizations about the impending launch of a carefully planned campaign of ethnic cleansing. As with Rwanda, their calls had gone unheeded.

16. Since the beginning of the year, local NGOs had been the target of violence, destruction and intimidation by the militias, which had always enjoyed the support of the Indonesian military. Like many other human rights militants, he had himself been subjected to systematic harassment by the Indonesian forces and had been compelled to leave East Timor because his presence was endangering the lives of those close to him. The campaign of terror waged against all pro-independence East Timorese males had resulted in the displacement of more than 400,000 people and more than 10,000 deaths. The Indonesian authorities, through their inability and unwillingness to comply with their obligations under the 5 May agreements, bore sole responsibility for the destruction of East Timor.

17. The East Timorese had been the victims of crimes against humanity. Clearly, the situation urgently required the establishment, under the auspices of the Security Council, of an international commission of inquiry whose findings would serve as a basis for prosecuting the perpetrators of those crimes. Thematic rapporteurs of the Commission on Human Rights should immediately visit East Timor, and the Indonesian authorities should guarantee the return of all refugees and the unconditional release of all East Timorese political prisoners. The adoption of a resolution by the Commission would undoubtedly help achieve those objectives. However, the events in East Timor showed once again how important it was for the international community to heed the warnings of civil society, particularly human rights NGOs, if the term "conflict prevention" was to mean anything.

18. Ms. WECHSLER (Human Rights Watch) requested the Commission on Human Rights to establish an impartial commission of inquiry in order to investigate fully the acts of violence committed against the East Timorese population since 27 January 1999, the date when the President of Indonesia had announced that he would give the East Timorese the opportunity to vote for independence.

It was well known that independence supporters and those suspected of working with international agencies had been systematically murdered. It was equally well known that, when the referendum results had been announced, nearly the entire population of East Timor had been uprooted and that many displaced persons were now on the verge of starvation. Furthermore, much of the infrastructure of East Timor had been destroyed. In order to determine responsibility and to ensure that those responsible were brought to justice, as demanded by the Security Council in resolution 1264 (1999), it was essential that the commission of inquiry should be granted all the resources it needed to carry out its mission. It should be able to question the witnesses and the victims of atrocities, wherever they were. States members of the Commission on Human Rights should be encouraged to provide the commission of inquiry with all the information it might need, including from military intelligence sources. The commission of inquiry should be made up of experts with the highest qualifications in human rights law and criminal law and should be assisted by fully qualified full-time staff. In addition, it should have the financial resources necessary to carry out its task, both from the regular United Nations budget and from voluntary contributions. It should start work as soon as possible in order to be able to report its findings directly to the Third Committee of the General Assembly and to the Security Council, and should submit a report to the next session of the Commission on Human Rights.

19. Ms. ROBERT (Médecins du Monde) said that her organization still had no news of a number of its local partners in East Timor. By its presence there, Médecins du Monde had witnessed the violence and the extent of the atrocities committed by the militias after the announcement of the referendum results. Civil populations were still inadequately protected and had no access to the humanitarian aid they required. Médecins du Monde was particularly anxious about the fate of the 150,000 to 200,000 people deported to West Timor, who were virtually destitute. It was imperative for the Office of the High Commissioner for Refugees to appeal to the Indonesian authorities to allow the displaced persons to exercise freely their right to safe return, by establishing humanitarian corridors.

20. In addition, it was necessary to report on the atrocities committed and identify those responsible as quickly as possible. Steps should therefore be taken to preserve evidence and send investigators into the field without delay. It was also necessary to decide what body would be competent to try the perpetrators. Reports on the facts and the identification and trial of those responsible were a sine qua non for the process of peace, rebuilding and reconciliation. Impunity today would breed violence tomorrow.

21. Mr. GUTERRES (Catholic Institute for International Relations) said he regretted to announce the murder of the head of Caritas East Timor, Fr. Francisco Barreto, and most of his staff. The tragic news merely confirmed the heavy price being paid for democracy in East Timor. At least 20,000 people were said to have been killed. Even the churches had not been spared the violence that had led the majority of the population of East Timor to flee. The Christian community, which had spoken out for years against oppression and violations in East Timor, had been a particular focus for acts of revenge, as shown by the attack on Bishop Belo's residence, in which many people had been killed.

22. The international community must take steps as a matter of the utmost urgency to address the health and nutritional needs of the displaced persons in East Timor and the refugees in West Timor. Humanitarian aid agencies must be able to reach those in need. The Catholic Institute for International Relations supported Amnesty International's demand for the establishment of a commission of experts to investigate violations in East and West Timor and an international criminal tribunal to bring those responsible to justice. He urged the international community to consider imposing sanctions on Indonesia for any failure to meet its obligations under the 5 May agreement. The embargo on military cooperation and arms sales should remain in force until Indonesia had ratified the results of the referendum, removed all its troops and disarmed the militia, which would allow East Timor to be placed under United Nations trusteeship. Any attempt by the Indonesian Government to send displaced East Timorese to remote areas of Indonesia in order to prevent them from returning home should also be strongly opposed. Only a truly democratic Indonesian Government would be able to forge constructive links with an independent East Timor.

23. Ms. AVELLA (Women's International Democratic Federation) said she deplored the fact that a number of countries had preferred to discuss the procedures for convening a historic special session of the Commission on Human Rights rather than ways of defending people - in particular women - who were suffering and whose rights were being violated along with international humanitarian law. The bloodbath in East Timor was a tragedy foretold whose protagonists were well known. It was the culmination of a strategy designed to cow a population that had refused to recognize the invader. The terror imposed by paramilitary groups and the Indonesian army had been foreseeable, since it was nothing more than the continuation of a long series of human rights violations. The genocide of the East Timorese people had been carried out in total impunity by paramilitary groups, in order to avoid implicating the armed forces.

24. WIDF unreservedly supported the proposal for the Special Rapporteur on violence against women, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Special Representative of the Secretary-General on Internally Displaced Persons to visit East Timor. It also believed it was essential to establish an international commission of inquiry. Lastly, it emphasized the need for a faster response to situations as serious as that in East Timor, particularly with a view to prevention.

25. Mr. DOYLE (Rehabilitation International) said that, during his visit to East Timor, from 26 July to 6 September 1999, he had seen much evidence of Indonesian police and military collusion with and support of militias in Dili and elsewhere. He had witnessed the violence and terror to which the East Timorese family he had lodged with had been subjected. He deplored the fact that no peacekeeping force had been in place before the referendum results had been announced and he feared that all members of the family had been killed.

26. Rehabilitation International considered it vital for the Commission to do whatever it could to protect the East Timorese people from the violent attacks coordinated and orchestrated by the Indonesian military, which were

still continuing. It supported the call for a commission of inquiry leading to the establishment of an international war crimes tribunal. It called for the disarming and arrest of all militias operating in East and West Timor and in other parts of Indonesia. It recommended the creation of a humanitarian corridor between West Timor and East Timor in order to guarantee the safe return of refugees.

27. Ms. BREEZE (Society for Threatened Peoples) said that the genocide was continuing in East Timor despite the arrival of the multinational force. The list of acts of violence committed by the Indonesian army and the militias continued to grow. With the Indonesian army cooperating closely with the militias, the Indonesian Government must accept joint responsibility for the crimes committed. According to an Australian journalist, Indonesian officers had encouraged the militias to attack East Timorese refugees on the grounds that they were independence supporters. The Society for Threatened Peoples had been following the situation of some 170,000 East Timorese refugees in West Timor and more than 100,000 in other parts of Indonesia. Many of them had apparently been displaced against their will. Refugee camps in West Timor were reported to be under the control of pro-Indonesian militias. On the border between East Timor and West Timor, Indonesian soldiers were reported to have separated the men of military service age from others.

28. The Society for Threatened Peoples called on the Commission on Human Rights to ensure that a war crimes tribunal was set up as soon as possible. It also called on it to insist that the Indonesian Government allowed international relief agencies and human rights organizations free access to refugee camps and permitted the East Timorese to return home. The international community must bear its share of the blame for the bloodbath in East Timor and the expulsion of hundreds of thousands of East Timorese. Contrary to what the United Nations Secretary-General had said, the situation could have been avoided. The Society for Threatened Peoples and other human rights organizations had for weeks been calling for the immediate dispatch of an international peace force. It was shameful that so many East Timorese had had to die or flee their country before the international community had finally decided to act.

29. Mr. DARUSMAN (Indonesian National Human Rights Commission) welcomed the results of the referendum of 30 August in East Timor and said he was convinced that the People's Consultative Assembly would approve them. The human rights violations committed in East Timor were basically attributable to the deterioration in law and order following the more direct use of the force of arms in civil affairs. Any objective assessment of the human rights situation in East Timor must take account of the political, social and economic factors involved. The territory had always been the scene of social conflict and that would continue. International help would therefore be needed in reconstruction.

30. He said that a commission was to be set up to investigate the human rights violations committed following the East Timor referendum. It would also ensure that the perpetrators were prosecuted and would report with recommendations to the Indonesian Government. It would be made up of members of the National Human Rights Commission, distinguished individuals and experts

acting in a personal capacity. International organizations would be able to participate. The National Human Rights Commission would hold consultations with UNHCR's Jakarta office on the mandate of the commission of inquiry.

31. Mr. HUSSAIN (Observer for Iraq), speaking in exercise of the right of reply, said that the special session had been convened to consider a specific issue and not to address other points not on the agenda, for political purposes. He called on the secretariat to ensure that the same thing did not happen again in other meetings. In order to promote human rights throughout the world, the situation in each country had to be considered objectively. He considered it necessary to remind the organization that had called Iraq into question that the Iraqi people had for 10 years effectively been the victims of genocide owing to the economic blockade imposed by the United States and to the American and British aerial bombardments, which had claimed more than 2 million lives, including 1 million children.

32. The CHAIRPERSON declared the general debate on agenda item 3 closed. The sponsors of the draft resolution that was being prepared on the issue had informed her that consultations had not yet finished and she therefore suggested that consideration of the proposed resolution should be postponed to a later meeting.

33. It was so decided.

The meeting rose at 5 p.m.